

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

XIAO CHEN LIN,)	
ID # 08242-043,)	
Movant,)	
)	
vs.)	No. 3:19-CV-263-M-BH
)	No. 3:16-CR-270-M(1)
)	
UNITED STATES OF AMERICA,)	
Respondent.)	

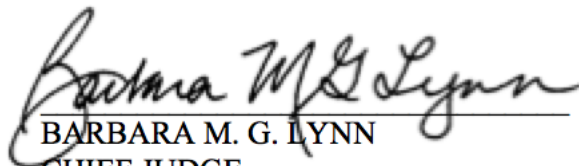
**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After reviewing the Findings, Conclusions, and Recommendation of the United States Magistrate Judge for plain error, I am of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

The *Petitioners* [sic] *motion for Relief from a judgment or order pursuant to the Federal Rules of Civil Procedure, Rule 60(b)(6)*, received on June 1, 2022 (doc. 65), is **CONSTRUED** as a successive motion to vacate filed under 28 U.S.C. § 2255. The Clerk of the Court is **DIRECTED** to: (1) terminate the post-judgment motion in this habeas case; (2) open a new habeas case for administrative purposes only; (3) docket the post-judgment motion as a § 2255 motion filed March 23, 2021, in that new case; (4) directly assign the new case to the same District Judge and Magistrate Judge as in this case; (5) file a copy of the Findings, Conclusions, and the order accepting those Findings, Conclusions, and Recommendation, and the judgment in that new case; and (6) without further judicial action, immediately **TRANSFER** the newly opened § 2255 action to the United States Court of Appeals for the Fifth Circuit.¹

¹ A certificate of appealability (COA) is not required to appeal an order transferring a successive habeas petition. *See In re Garrett*, 633 F. App'x 260, 261 (5th Cir. 2016); *United States v. Fulton*, 780 F.3d 683 (5th Cir.2015).

SIGNED this 6th day of July, 2022.


BARBARA M. G. LYNN
CHIEF JUDGE